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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/088,731	08/22/2002	Karl Heinz Schmid	C 2079 PCT/US	4546

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COGNIS CORPORATION
PATENT DEPARTMENT
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EXAMINER

CHANNAVAJALA, LAKSHMI SARADA

ART UNIT PAPER NUMBER

1615

DATE MAILED: 09/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/088,731

Applicant(s)

SCHMID ET AL.

Examiner

Lakshmi S. Channavajjala

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-15, 17-21 and 23-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12-15, 17-21 and 23-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Receipt of amendment and remarks dated 7-15-05 is acknowledged.

New claims 23-31 have been added. Claims 12-15, 17-21 and 23-31 are pending in the instant application.

Response to Arguments

Applicant's arguments with respect to claims 12-15 and 17-21 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

Claims 12-15, 17-21 and 23-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,235,702 (US '702) in view of WO 96/15138 (WO) or over US 6,235,702 (US '702) by itself.

Instant claims 12-17 are directed to a composition comprising an alkyl and/or alkenyl oligoglycoside and a foam stabilizer selected from the group of dicarboxylic acid monoester, or dicarboxylic acid monoester salts or mixtures thereof. Claims 18-23 are directed to a process of enhancing the dermatological and ophthalmic mucus membrane combability of a cosmetic composition with the above composton.

US '702 teach aqueous nacreous luster concentrate comprising an ester formed by reacting a hydroxy-functionalized carboxylic acid with a fatty alcohol containing 6 to 22 carbon atoms and an emulsifier selected from the nonionic, cationic and anionic, esterquat etc and a polyol (col. 2, lines 8-17). US '702 teaches that the carboxylic acid esters are prepared by esterification of carboxylic acids and containing 4 to 12 carbon

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atoms, having 2 to 4 carboxyl groups, with fatty alcohols. US '702 teaches suitable acids and fatty alcohols which are the same as that claimed, for preparing the esters (col. 2). US '702 further teach that the suitable nonionic surfactants including alkyl mono- and oligoglycoside containing 8 to 22 carbon atoms in the alkyl group and ethoxylated analogs thereof (col. 3, lines 12-14 and lines 47-60). US '702 also exemplifies a composition comprising tartaric monostearyl ester and cocoalkyl glycoside, which read on the instant components a) and b) (Table 1, composition R1). Thus, it would have been obvious for one of an ordinary skill in the art at the time of the instant invention to use a combination of pearly luster carboxylic acid ester and alkyl oligoglycoside as nonionic surfactants because US '702 suggests that while the carboxylic acid esters impart excellent pearlescent properties, brilliance even in smaller amounts and the nonionic surfactants improve the free-flowing nature of the pearly luster concentrate. US '702 also exemplify compositions with same number of carbon atoms in the esters and oligoglycoside (composition R2, Table 1) in the composition, but does not teach the claimed ratios of esters and oligoglycoside. However, optimizing the amounts of the pearlescent component and the amount of surfactant with an expectation to obtain the desired amount of pearlescence as well as a free-flowing composition would have been within the scope of a skilled artisan at the time of the instant invention.

Alternatively, WO discloses a composition comprising alkyl polyglycoside, wherein the composition is used for cleaning hair and/or skin. WO teaches alkyl polyglycoside that is similar to that described in the instant application (page 7). In

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addition to alkyl polyglycoside, WO teaches an additive such as alkyl sulfate, carboxylic acids including their derivatives and salts, aliphatic sorbitan esters, Guerbet alcohols etc (page 6). WO does not teach dicarboxylic acid esters of the instant claims.


US '702, described above, teaches a pearly luster concentrate comprising the instant component a) as a suitable pearlescent agent, and a nonionic surfactant such as alkyl oligoglycoside, for increasing the free-flowing nature of the concentrate, when used in cosmetic compositions such as shampoos. Therefore, it would have been obvious for one of an ordinary skill in the art at the time of the instant invention to use the carboxylic acid ester of US '702, to impart pearly luster concentrate to the composition of WO containing alkyl oligoglycoside as nonionic surfactants because US '702 suggests that while the carboxylic acid esters impart excellent pearlescent properties & brilliance even in smaller amounts and the nonionic surfactants improve the free-flowing nature of the pearly luster concentrate.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lakshmi S. Channavajjala whose telephone number is 571-272-0591. The examiner can normally be reached on 9.00 AM -6.30 PM

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman K. Page can be reached on 571-272-0602. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Lakshmi S Channavajjala
Examiner
Art Unit 1615

September 23, 2005